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GOVERNOR

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DEPARTMENT OF HUMAN SERVICES  
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October 30, 2003

**TO:** Interested Parties

**FROM:** Christine Zukas-Lessard, Acting Director, Bureau of Medical Services

**SUBJECT:** Final Rule Adoption: Chapter III, Section 45, Hospital Services of the MaineCare Benefits Manual.

This final rule restructures reimbursement policy for most hospitals. The proposed language for acute care non-critical access hospital inpatient services was not adopted. Outpatient services will be reimbursed based on a percentage of the lesser of costs or charges.

- The Department is promulgating an emergency rule to coincide with the effective date of this final rule for purposes of clarification and refinement of inpatient discharge reimbursement.
- Distinct psychiatric units of acute care hospitals will be paid a separate price, listed in Appendix A of the final rule.
- Reimbursement for non-state owned psychiatric hospitals is based on a percentage of charges.
- Reimbursement for critical access hospitals and state owned psychiatric hospitals remains unchanged.
- Disproportionate share hospital eligibility requirements have been broadened to include public acute care hospitals.
- Requirements for reimbursement for out-of-state hospitals are clarified.

The rule has been reorganized and completely replaces the previous Ch. III, Section 45 of the MaineCare Benefits Manual. Additional policy clarifications and minor editing changes are included throughout. The rule changes take effect October 31, 2003.

Rules and related rulemaking documents may be reviewed at and printed from the Bureau of Medical Services website at <http://www.state.me.us/bms/rulemaking/> or, for a fee, interested parties may request a paper copy of rules by contacting Debra Thompson at (207) 287-9368 or TTY: (207) 287-1828 or 1-800-423-4331.

If you have any questions regarding these rules, please contact your Provider Relations Specialist at 287-3094 or 1-800-321-5557, option 9 or for TTY (207) 287-1828 or 1-800-423-3331.

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SECTION 45

HOSPITAL SERVICES

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**45.01 DEFINITIONS**

- 45.01-1 Acute Care Critical Access Hospital is a hospital licensed by the Department as a critical access hospital that is being reimbursed as a critical access hospital by Medicare.
- 45.01-2 Acute Care Non-Critical Access Hospital is a hospital licensed by the Department as an acute care hospital that is not being reimbursed as a critical access hospital by Medicare.
- 45.01-3 Discharge is when a when a member is formally released from the hospital, transferred from one hospital to another, or dies in the hospital. For purposes of this Section, a member is not considered discharged if moved from one location within a hospital to another, or readmitted to the same hospital on the same day.
- 45.01-4 Distinct Psychiatric Unit is a unit within an acute care non-critical access hospital that specializes in the delivery of inpatient psychiatric services. The unit must be reimbursed as a distinct psychiatric unit as a subprovider on the Medicare cost report or must be comprised of beds reserved for use for involuntary commitments under the terms of a contract with the Department of Behavioral and Developmental Services. The claim must also be distinguishable as representing a discharge from a distinct psychiatric unit in the MaineCare claims processing system.
- 45.01-5 MaineCare Paid Claims History is a summary of all claims billed by the hospital to MaineCare for MaineCare eligible members that have been processed and accepted for payment by MaineCare.
- 45.01-6 Non-State Owned Psychiatric Hospital is a hospital that is primarily engaged in providing psychiatric services for the diagnosis, treatment, and care of persons with mental illness and is not owned and operated by the State of Maine. The facility must be licensed as a psychiatric hospital by the Department of Human Services. A psychiatric hospital may also be known as an institution for mental diseases.
- 45.01-7 Prospective Interim Payment (PIP) is the weekly payment made to a non-State owned hospital based on the estimated total annual Department obligation as calculated below. For purposes of the PIP calculation, a MaineCare discharge for the most recently completed hospital fiscal year is one with a discharge date occurring within the hospital fiscal year and submitted prior to the time of calculation.
- 45.01-8 State Owned Psychiatric Hospital is a hospital that is primarily engaged in providing psychiatric services for the diagnosis, treatment, and care of persons with mental illness and is owned and operated by the State of Maine. The facility must be licensed as a psychiatric hospital by the Department of Human Services. A psychiatric hospital may also be known as an institution for mental disease.
- 45.01-9 Transfer means a member is moved from one hospital to the care of another hospital. MaineCare will not reimburse for more than two discharges for each episode of care for a member transferring between multiple hospitals.

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**45.02 GENERAL PROVISIONS**

**45.02-1 Inflation**

For purposes of determining inflation, unless otherwise specified, the economic trend factor from the most recent edition of the "Health Care Cost Review" from DRI/McGraw-Hill shall be used.

**45.02-2 Third Party Liability**

When a member is admitted to a hospital as a result of an accident, it is the hospital's responsibility to identify all coverage available and perform all procedural requirements of that identified coverage to assure proper reimbursement. Additionally, the hospital must notify the Bureau of Medical Services, Third Party Liability Unit. The hospital must include this information on the claim form; or if the information becomes known after claim submission, the hospital must notify the Unit in writing. This allows assignment of the member's right to third-party coverage of claims or possible recovery as the result of tort action. Please see Chapter I Section 1.07 for detailed definitions applicable to Third Party Liability. Providers must adhere to the procedures outlined in that Section.

Any MaineCare claim submitted by a hospital may only be withdrawn within 120 days of the date received.

**45.02-3 Reconciliation and Settlement**

At reconciliation and settlement, the hospital will reimburse the Department for any excess payments; or the Department will reimburse the amount of any underpayment to the hospital. In either case, the lump sum payment must be made within 30 days of the date of the letter notifying the provider of the results of the year-end reconciliation or settlement. If more than one year's reconciliation or settlement is completed in the same proceeding, the net amount must be paid. If no payment is received within 30 days, the Department may offset prospective interim payments.

**Note:** Hospitals are required to file with the DHS, Division of Audit a year-end cost report within 5 months from their fiscal year end. The cost report filing consists of: CMS Form 2552 or its equivalent, audited financial statements, and any other related documentation as requested by the DHS-Division of Audit. The cost report must include applicable MaineCare utilization and a calculated balance due to/from MaineCare.

**45.03 ACUTE CARE NON-CRITICAL ACCESS HOSPITALS**

**45.03-1 Prospective Interim Payment**

The Department of Human Services' total annual PIP obligation to a hospital will be the sum of MaineCare's obligation for the following: inpatient services + outpatient services + inpatient capital costs + hospital based physician and graduate medical education costs + days awaiting placement. Third party liability payments are subtracted from the PIP obligation. The computed amounts are calculated as described below:

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A. Inpatient Services

1. Acute Care Non-Critical Access Inpatient

The Department has not adopted the State FY 2004 price per discharge column in Appendix A. The Department is promulgating emergency rules effective 10/30/2003 for clarification and refinement of the reimbursement of these services and to continue payment for inpatient services on a per discharge basis.

2. Distinct Psychiatric Unit Inpatient

Discharges from distinct psychiatric units will be reimbursed at the rate specified in Appendix A per discharge. MaineCare will only reimburse at this rate when the member has spent the majority of his or her stay in the distinct unit. MaineCare will only reimburse for one discharge for a single hospital for one episode of care.

B. Outpatient Services

The MaineCare outpatient component of the PIP equals the lower of MaineCare outpatient costs or charges during the fiscal year for which the most recent as-filed cost report is available, inflated to the current year and reduced by a factor of 23% in State fiscal year 2004, and 25% in State fiscal year 2005. This factor may be amended by the Commissioner to be a value between 20% and 30% with 30 days written notice to providers.

MaineCare's share of clinical laboratory and radiology costs are added to this amount. The procedure codes and terminology of the Healthcare Common Procedure Coding System (HCPCS) are used to establish MaineCare allowances for clinical laboratory and radiology services.

C. Adjustments

MaineCare's share of inpatient capital costs, inpatient and outpatient hospital based physician and graduate medical education costs, and inpatient and outpatient third party liability are taken from the most recent hospital fiscal year end MaineCare cost report as filed with DHS Division of Audit, inflated to the current year.

D. MaineCare Member Days Awaiting Placement (DAP) at a Nursing Facility (NF) and NF Services Provided to a Member in a Swing-Bed Reimbursement.

Reimbursement will be made prospectively at the estimated statewide average rate per member day for NF services. The Department shall adopt the prospective statewide average rates per member day for NF services that are specified in the Principles of Reimbursement for Nursing Facilities, MaineCare Benefits Manual Chapter III, Section 67. The average statewide rate per member day shall be computed based on the simple average of the NF rate per member day for the applicable State fiscal year(s) and prorated for a hospital's fiscal year.

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All of these data elements are taken from the most recent hospital fiscal year end MaineCare cost report as filed with DHS Division of Audit, inflated to the current year.

45.03-2 Interim Volume Adjustment

The hospital may request in writing, or the Department may initiate, a comparison of MaineCare claims data submitted in the first 150 days of the payment year to the projected number of discharges used in calculating the PIP. If there is a difference of at least 5% between the actual MaineCare inpatient volume and prospectively estimated MaineCare inpatient volume, an adjustment may be made to the PIP using actual discharge data. An adjustment to the MaineCare outpatient component may be made at the same time using current outpatient cost to charge ratios.

45.03-3 Year End Interim Settlement

The Department of Human Services' year end interim settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data source used for inpatient calculations will be discharges included in MaineCare paid claims history as measured by the Department. Other calculations will be based on the hospital's as-filed cost report and MaineCare paid claims history for the year for which reconciliation is being performed.

45.03-4 Final Settlement

The Department of Human Services' final settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data source used for inpatient calculations will be discharges included in MaineCare paid claims history as measured by the Department. Other components will be based on the hospital's audited cost report from the Medicare fiscal intermediary and MaineCare paid claims history for the year for which reconciliation is being performed.

All calculations made in relation to acute care critical access hospitals must be made in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA), except as stated below, plus a DSH adjustment payment for eligible hospitals.

45.04 **ACUTE CARE CRITICAL ACCESS HOSPITALS**

45.04-1 Prospective Interim Payment

The Department of Human Services' total annual PIP obligation to the hospitals will be the sum of MaineCare's obligation of the following: inpatient services + outpatient services + days awaiting placement + hospital based physician + graduate medical education costs. Third party liability payments are subtracted from the PIP obligation.

These computed amounts are calculated as described below:

A. Inpatient Services

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The total MaineCare inpatient operating costs from the most recent as-filed cost report, inflated forward to the current year.

B. Outpatient Services

MaineCare outpatient costs inflated to the current year using the most recent as-filed cost report.

C. MaineCare Member Days Awaiting Placement at a Nursing Facility and NF Services Provided to a Member in a Swing-Bed Reimbursement

Reimbursement will be made prospectively at the estimated statewide average rate per member day for NF services. The Department shall adopt the prospective statewide average rates per member day for NF services that are specified in the Principles of Reimbursement for Nursing Facilities, MaineCare Benefits Manual Chapter III, Section 67. The average statewide rate per member day shall be computed based on the simple average of the NF rate per member day for the applicable State fiscal year(s) and prorated for a hospital's fiscal year.

D. Adjustments

MaineCare's share of hospital based physician + graduate medical education costs are taken from the most recent hospital fiscal year end MaineCare cost report as filed with DHS Division of Audit, inflated to the current year.

45.04-2 Interim Volume Adjustment

The hospital may request in writing, or the Department may initiate, a comparison of MaineCare claims data submitted in the first 150 days of the payment year to the projected number of discharges used in calculating the PIP. If there is a difference of at least 5% between the actual MaineCare inpatient volume and prospectively estimated MaineCare inpatient volume, an adjustment may be made to the PIP using actual discharge data. An adjustment to the MaineCare outpatient component may be made at the same time using current outpatient cost to charge ratios.

45.04-3 Year End Interim Settlement

The Department of Human Services' year end interim settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data sources used will be the hospital's as-filed cost report and MaineCare paid claims history for the year for which reconciliation is being performed.

45.04-4 Final Settlement

The Department of Human Services' final settlement with a hospital is calculated using the same methodology as is used when calculating the PIP, except that the data sources used will be the hospital's audited cost report from the Medicare fiscal intermediary and MaineCare paid claims history for the year for which settlement is being performed.

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45.05-1 Prospective Interim Payment

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Non-state owned psychiatric hospitals will be paid weekly prospective interim payments based on the Department's estimate of the total annual obligation to the hospital. The Department's total annual obligation shall be computed based on the hospital's negotiated percentage rate. The negotiated percentage rate shall be between 85% and 95% of the hospital's estimated inpatient and outpatient charges, less third party liability.

45.05-2 Interim Volume Adjustment

The hospital may request in writing, or the Department may initiate, a comparison of MaineCare charges on claims submitted in the first 150 days of the payment year to the projected charges used in calculating the PIP payment. If there is a difference of at least 5% between the actual MaineCare inpatient charge data and prospectively estimated MaineCare charge data, an adjustment may be made to the PIP using actual charge data. An adjustment to the MaineCare outpatient component may be made at the same time using current outpatient charge data.

45.05-3 Final Settlement

The Department's total annual obligation to a hospital will be computed based on the hospital's negotiated percentage rate. The settlement amount shall be greater than or equal to 85% percent but not more than 95% of the hospital's actual MaineCare charges from paid claims history, less third party liability.

45.06 **STATE OWNED PSYCHIATRIC HOSPITALS**

The Department's total annual obligation shall be based on the hospital's actual charges.

45.07 **OUT-OF-STATE HOSPITALS**

The Department will reimburse out-of-state hospitals for inpatient and outpatient services based on:

1. The MaineCare rate if applicable;
2. The lowest negotiated rate with a payor whose rate the provider currently accepts;
3. The provider's in-State Medicaid rate;
4. A percentage of charges; or
5. A rate specified in MaineCare's contract with the provider.

Out-of-State providers must accept MaineCare reimbursement for inpatient services as payment in full for all services necessary to address the illness, injury or condition that led to the admission.

Out-of-State providers must meet all requirements outlined in Chapter I of the MaineCare Benefits Manual (MBM) including signing a provider/supplier agreement, obtaining prior authorization and those related to third party collections, when applicable. Providers are also subject to requirements outlined in MBM Chapter II, Section 45, Hospital Services and Section 46, Psychiatric Facility Services, as applicable.

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Hospital laboratory services provided to a person not currently a patient of the hospital are considered outpatient hospital services and are reimbursable in accordance with MBM Chapter II, Section 55, Laboratory Services, or Chapter III, Section 90, Physician Services.

In the case of tissues, blood samples or specimens taken by personnel that are not employed by the hospital but are sent to a hospital for performance of tests, the tests are not considered outpatient hospital services since the individual does not receive services directly from the hospital.

Certain clinical diagnostic laboratory tests must be performed by a physician and are, therefore, exempt from the fee schedule. Updated lists of exempted tests are periodically sent to hospitals from Medicare.

Laboratory services must comply with the rules implementing the Clinical Laboratory Improvement Amendments (CLIA 88) and any applicable amendments.

**45.09 DISPROPORTIONATE SHARE HOSPITALS (DSH)**

**45.09-1 Eligibility for DSH Payments**

**A. Essential Non-State Public Acute Hospitals**

A hospital must meet all of the following criteria, as determined by the Department:

1. The hospital is a non-State owned, publicly owned hospital;
2. The hospital is a licensed acute hospital located in the State of Maine; and
3. The hospital has a current MaineCare provider agreement.

**B. Institutions for Mental Diseases**

The IMD must have a MaineCare utilization rate (MUR) of at least one percent.

**C. Acute Care Hospitals, other than Essential Non-State Public Acute Hospitals**

The acute care hospital must meet the criteria in Section 45.01-9(1)(a) and (b) have a MaineCare utilization rate of at least 25%.

**D. Calculation of MaineCare Utilization Rate (MUR)**

The MaineCare utilization rate calculation is:

$$\text{MUR \%} = 100 \times \text{M/T}$$

**M** = Hospital's number of inpatient days attributable to MaineCare covered patients

**T** = Hospital's total inpatient days

In calculating the inpatient MUR, the State will include newborn nursery days, whether billed under the mother's MaineCare identification number or the infant's, days in specialized wards, including intensive and critical care units, administratively necessary

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days including days awaiting placement, and days attributable to individuals eligible for Medicaid in another state. The State will not include days attributable to MaineCare members between 21 and 65 years of age in institutions for mental diseases, unless such days are reimbursable under MaineCare.

45.09-2 Prospective DSH Payments

Subject to the Cap Adjustment described below and to the extent allowed by the Centers for Medicare and Medicaid Services (CMS), unless otherwise provided, the DSH adjustment will be 100% of the actual cost, as calculated using TEFRA and GAAP principles, of:

1. services furnished to MaineCare members plus
2. bad debt and charity care as reported on the hospital's most recent audited financial statement plus,
3. cost associated with the downsizing of the State-run facilities, if applicable;

minus payments made by the State for services furnished to MaineCare members.

For the essential non-State public acute care hospitals the DSH adjustment for services rendered during the period August 1, 2003 through June 30, 2005 will be 175% of applicable costs, minus state payments.

Cap Adjustment

The Centers for Medicare and Medicaid Services establishes an aggregate cap on the DSH payment for which the State may claim federal financial participation (overall cap). Within that overall aggregate cap, there is a limit on the amount of DSH payment that may be made to IMDs (IMD cap).

1. **IMD DSH Payments**

If the Department determines that aggregate payments, as calculated above, would exceed the IMD cap established by CMS, payments will be made to State-run facilities first. Remaining IMD DSH payments will be proportionately reduced for all remaining IMDs.

2. **Acute Care DSH Payments**

If the Department, determines that aggregate payments to acute care hospitals, as calculated above, would exceed the overall cap established by CMS, less DSH payments to IMDs, then:

The Department will determine the amount of DSH allotment necessary to establish budget neutrality for any applicable federal waivers. After making this determination, the Department will use the remainder of the allotment, if any, to make DSH payments to essential non-State public acute care hospitals. If necessary, DSH payments to these facilities will be proportionately reduced. Remaining acute care DSH payments will be proportionately reduced for all remaining hospitals.

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3. Proportionate Reduction

The Department will calculate the proportionate reduction by applying the original DSH payment percentage determined for each hospital to the applicable DSH payment amount (cap) available.

45.09-3 Final DSH Adjustment

The Department of Human Services' total year end DSH obligation to a hospital is calculated using the same methodology as is used when calculating the prospective DSH adjustment, except that the data source used will be the hospital's audited cost report data, audited financial statement, and actual MaineCare claims from paid claims history for the year for which reconciliation is being performed.

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Appendix A

<b>Hospital</b>	<b>State FY 2004 Psych Unit Rate</b>
Central Maine Medical Center	NA
Eastern Maine Medical Center	NA
Maine Medical Center	\$5,500
Maine General Health	\$5,500
Mercy (inc Westbrook)	NA
Saint Mary's	\$5,500
Southern Maine Medical Center	\$5,500
Bridgton Hospital (inc No Cumberland)	NA
Cary Medical Center	NA
Downeast Community	NA
Henrietta D Goodall	NA
Houlton Regional	NA
Inland Hospital	NA
Maine Coast Memorial	NA
Mid Coast Hospital	\$5,500
Miles Memorial	NA
Northern Maine	\$13,394
Parkview Memorial	NA
Redington-Fairview General	NA
Saint Joseph's	NA
Sebasticook Valley	NA
Waldo County General	NA
York	NA
Franklin Memorial	NA
Mayo Regional	NA
New England Rehab	NA
Penobscot Bay	\$5,500
Stephens Memorial	NA
The Aroostook Medical Center	\$5,500